

REMARKS

Claim Rejections

Claims 1-2 and 7-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by McLean (U.S. 5,958,462).

Amendments to Specification

Applicant has amended the Specification as noted above to cure obvious grammatical and idiomatic inaccuracies and to correct the spelling of "perchlorate" and "fumarate". No "new matter" has been added to the original disclosure by the foregoing amendments to the Specification.

Abstract of the Disclosure

Applicant is submitting a substitute Abstract of the Disclosure for that originally filed with this application to more clearly describe the claimed invention. Entry of the Substitute Abstract of the Disclosure is respectfully requested.

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

New Claims

By this Amendment, Applicant has canceled claims 1-6 and 9-14, and has added new claims 15-16 to this application. It is believed that the new and amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art.

New claim 15 includes the subject matter of original claims 1 and 2. Claims 7 and 8 were amended to depend from New independent claim 15. New claim 16 includes the subject matter of original claims 9 and 10.

The cited reference to McLean teaches therapeutic bath salts for the relaxation of muscles, elimination or reduction of muscle spasms, and for the overall enhancement of a person's mood. The bath salts include magnesium sulfate trihydrate, lithium chloride, copper gluconate, sodium bicarbonate, and essential oil.

On page 3 of the outstanding Office Action, the Examiner states:

...even though McLean does not state that the disclosed composition is antibacterial, antiviral, and antifungal, the same property must necessarily be possessed by McLean's composition because it contains the same exact claim-required ingredients at amounts that are readable on the instant claims.

Applicant respectfully submits that antibacterial, antiviral, and antifungal properties of the present invention destroy fatty acid structures and virus gene structures, which is not attainable by the muscle relaxation properties of McLean. In the present invention.

McLean does not teach the weight ratio of ingredients (A):(B):(C) is 1: 10-50: 1500-3000, and a composition in which (A) is copper gluconate and magnesium sulfate, (B) is lithium chloride, and (C) is sodium bicarbonate is excluded.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that McLean does not disclose each and every feature of Applicant's new and amended claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, McLean cannot be said to anticipate any of Applicant's new and amended claims under 35 U.S.C. § 102.

It is further submitted that McLean does not disclose, or suggest any modification of the specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Thus, it is not believed that McLean renders obvious any of Applicant's new and amended claims under 35 U.S.C. § 103.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: November 7, 2005

By:


Bruce H. Troxell
Reg. No. 26,592

TROXELL LAW OFFICE PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041
Telephone: 703 575-2711
Telefax: 703 575-2707